

**REMARKS**

This Supplemental Response addresses the issues set forth in the Office Action dated March 16, 2004, as well as issues set forth in the Advisory Action dated September 28, 2004. Applicants are especially grateful for the careful consideration that Examiner Cricic has given to this application and for the helpful suggestions made for improving the application text and claims. The Examiner apparently appreciates the challenges in defining the present invention, which involves the somewhat unusual situation involving selectively and alternatively attachable parts. Applicants appreciate the helpful and cooperative spirit in which this application has been considered.

In this response Applicants have cancelled all previously pending claims and substituted new claims 21-36 that correspond with the cancelled claims and avoid all of the formality issues raised in the Advisory Action. Support for these amendments may be found in the specification, *inter alia*, at paragraphs [0007], [0008], [0011], [0015], [0019], [0022] and [0023]. Following entry of these amendments, claims 21-36 are pending in the application. Claims 21, 33 and 35 are generic to species 1, 3, 4 and 5, and claims 34 and 36 are generic to all species. Claim 23 has been withdrawn by the PTO; however, Applicants respectfully request reconsideration (and/or this issue becomes moot if parent claim 21 is found allowable).

Reconsideration of the present RCE is respectfully requested in view of the foregoing amendments and the remarks which follow.

**New Matter Issue**

On page 2 of the Final Office Action, the PTO has indicated a belief that Applicants previous response introduced “new matter” into the application. Applicants respectfully disagree and believe that the PTO may have overlooked the disclosure contained in paragraph [0015] on page 7 of the application text, as well as perhaps the disclosure in paragraph [0024] at the bottom of page 10 of the specification. At the former location, the original text refers to “fastening means engaging in a bonding, frictional or interlocking manner,” and at the latter location the text states that the “cover 18 is provided with plug-in

or latching members which are matched to the flange profile members 4 [sic: 14] of the conditioning housing.” Consequently, there is a clear and adequate disclosure of “fastening means” in the original application text, and several different types of fastening means are specifically mentioned. Moreover, it is believed apparent from the drawings that, in the case of both the cover 18 and the additional housing 10, at least a “plug-in” or “frictional” connection is shown between the connecting section and those two respective (alternative) parts that are connected together according to the invention. For these reasons, Applicants believe that no “new matter” has been added to the application. Further, the absence of any “new matter” should obviate several other issues raised in the Office Action, i.e., the specification objection raised in paragraph 12 of the Office Action, the § 112, par. 1, rejection of claims 19 and 20 raised in paragraph 17 of the Office Action, and the § 112, par. 2, rejection raised in paragraph 19 of the Office Action.

In the Advisory Action, the PTO has raised the related issue under Rule 83(a) of whether the subject matter of new claims 35 and 36 is adequately illustrated in the drawings. Applicants respectfully submit that the original drawings do adequately illustrate the claimed features. For example, at least Figures 1, 2, 3, 5 and 6 clearly show a form-fitting (plug-in) fit between the cover 18 or the additional housing 10, both at the bottom and top edges of opening 13 and, in the case of Fig. 1, also at the top edge of additional housing 10. This arrangement depicts both a “friction-fit” arrangement as well as a “bonded” arrangement, i.e., there is no additional structure that is normally illustrated in the case of “bonding,” for example, by a bonding agent or by a heat bonding step. Therefore, Applicants respectfully submit that Rule 83(a) is satisfied (the illustration of at least one embodiment falling within the claim language) by the structure that is illustrated in the various figures. At the same time, Applicants would welcome any suggestions from the Examiner with regard to modifications of the drawings that would be preferable from the PTO’s standpoint.

Applicants have also made minor amendments to the specification, drawings and claims in order to clarify the terminology and structure that was previously referred to in the claims as the fastening means. It is believed evident from the application disclosure that the “connecting section” of the conditioning housing 1 is provided for *connecting* either of a number of separate and alternate parts, e.g., either the releasable cover 18 or the additional

housing 10 of the rear temperature control unit. The flanges 14 on the connecting section are the preferred connecting structure for connecting these alternative parts. As described in the specification (and quoted above), the cover 18 preferably has a portion that “plugs-in” to the air outlet opening 13 that is surrounded by the flanges 14, i.e., those flanges shown both at the top and at the bottom in Fig. 2. Alternatively, for the additional housing 10, it can be seen that the opening to be attached to the connecting section is much larger than the opening of the air outlet opening 13, and in this case additional flange members 14 are provided near the top of the additional housing 10. In this case, the specification states (in paragraph [0015] on page 7) that “the connecting section and the rear temperature-control unit are provided with flange members which correspond to one another and can be fitted together . . . [and as] a result, the rear temperature control unit can be securely position and centered . . . [and t]ight, leak-proof attachment . . . is therefore ensured with interposition of suitable sealing means.” Accordingly, Applicants have adopted in the claims the term “connecting structure” to broadly cover the various alternative means of connecting the two parts together that are disclosed in the application. In addition, reference numerals have been introduced into the drawings in order to aid in the discussion appearing in the specification. It is believed that the disclosure and claims are now readily understandable, consistent with one another and consistent with the subject matter that was clearly disclosed in the original application documents.

### **Objections to the Drawings**

Applicants gratefully acknowledge the approval of the previously-submitted changes in Figure 7 of the drawings, on page 3 of the Office Action, and they submit herewith a formal version of Figure 7.

As noted above, Figures 1, 2 and 4 have been amended to identify more clearly the corresponding portions of the connection section and of the respective cover 18 and additional housing 10 of the rear temperature control unit. Similarly, Figure 1 now depicts the PTC units in heater 4. Approval of these proposed changes is respectfully requested.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding objections to the drawings.

### **Objections to the Specification**

On pages 3 and 4 of the Office Action, the PTO has objected to the specification for various minor informalities. In this response, Applicants have amended the specification to address the PTO's objections, as discussed above in connection with the "new matter" issue.

With regard to the abstract of the disclosure, Applicants have amended the abstract to correct the minor informalities noted by the PTO. Approval is requested.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding objections to the specification.

### **Objections to the Claims**

On pages 4-5 of the Office Action, the PTO has objected to various claims for minor informalities. With regard to the objections applied to claims 1-3, 6 and 8-20, Applicants respectfully request reconsideration, inasmuch as it is believed that the word "and" does not properly belong before the term "operably integrated therein." Applicants would be pleased to discuss this point further with the Examiner, if there remains some misunderstanding on their part. Claim 3 has been cancelled in view of the correct observation in the Office Action. Claims 10 and 12 (corresponding to new claims 26 and 28) have amended to correct the dependency. In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding objections to the claims.

### **Rejections Under 35 U.S.C. §112, 1<sup>st</sup> & 2<sup>nd</sup> Paragraphs**

On pages 5-7 of the Office Action, the PTO has rejected claims 19-20 under 35 U.S.C. §112, 1<sup>st</sup> paragraph, based on an alleged lack of written description, as well as various claims under 35 U.S.C. §112, 2<sup>nd</sup> paragraph, as allegedly being indefinite. Applicants request reconsideration of these rejections based on the foregoing amendments and/or for the reasons set forth below.

With regard to claims 19 and 20 (new claims 35 and 36), Applicants have already pointed out above the several locations in the original documents where written description

support is found for the subject matter of those claims. In addition, claims 35 and 36 have been amended to bring them more into congruence with the original disclosure.

With regard to the independent claims 1, 17 and 18 (new claims 21, 33 and 34), Applicants have amended those claims to take into consideration the observations noted in the Office Action and to add clarity to the scope of the claims. As explained above, the connecting section of the conditioning housing possesses certain structure that permits two or more different covering structures to be alternatively connected to the conditioning housing, i.e., either cover 18 (as shown in Fig. 2) or additional housing 10 (as shown in Figs. 1 and 4). Claims 21 and 33 have been amended to utilize Markush language, as suggested in the Office Action, in order to make clearer the alternative nature of the attachment of these two parts, and furthermore to emphasize the structural significance of the connecting structure that cooperates with the respective attachment parts in order to alternately connect them. As pointed out at the outset, there are multiple flange portions 14, some of which cooperate to connect the cover 18, some of which cooperate to connect the additional housing 10, and one portion of flanges 14 serves, in part, to connect both cover 18 and additional housing 10, i.e., the flange 14 depicted at the bottom of Figs. 1, 2 and 4, beneath air outlet opening 13. Thus, in the case of claims 21 and 33, the claims cover multiple, alternative structures (i.e., species), which in each case share a common connecting section on the conditioning housing that is designed to connect to both attachment parts.

In the case of independent claim 34, the claim is directed only to the conditioning housing (rather than to the entire system), and this claim is worded so as to make it clear that the cover and the additional housing are not positively claimed elements, but rather serve to define the nature of the claimed “connecting structure” that is found on the connecting section of the conditioning housing. Thus, the scope of this claim is also believed to be clear.

Claim 8 has been cancelled, as being redundant to claim 6.

Applicants respectfully request reconsideration with regard to claim 9 (new claim 25). As noted in the specification, even Fig. 2 relates to an embodiment in which two zones are independently supplied with conditioned air. In order to accomplish a two-zone system (in a configuration in which there is no additional housing), there must be a partition in heater 4,

i.e., to create independent right and left zones in the front vehicle compartment. Thus, the structure claimed in claim 9 is generic to both Figs. 1 and 2. See paragraph [0024] on page 10.

With regard to claim 11 (new claim 27), Applicants have amended this claim to tie in the relative size recitations to the connecting structure (flanges 14). Thus, it is clear that the area of the connecting section encompassed by the flanges 14 (far top and far bottom) that cooperate to attach additional housing 10 is much larger than the area of the air outlet opening 13.

Claim 10 (new claim 26) has been reworded to make it clear that there is a partition in at least one of the two heaters 4 and 11. When claimed in this manner, the claim structure is believed to be adequately illustrated by Figure 7 of the drawings.

With regard to claim 13 (new claim 29), Applicants have amended this claim to, again, more clearly define the mating flange structures in the context of the “connecting structure” that is described in the specification, e.g., paragraph [0015] of the specification (set forth above).

Claim 16 (new claim 32) has been amended correspondingly, to obviate the antecedent basis issues raised by the PTO.

With regard to claim 14 (new claim 30), Applicants submit that the use of PTC elements in automotive heaters is well understood by persons skilled in the art, as these are very conventional (as noted in paragraph 25 of the Office Action). Since the PTC elements are now depicted schematically in the drawings, it is believed that the concerns of the PTO are satisfied.

Finally, claims 19 and 20 (new claims 35 and 36) have been rewritten to employ Markush language, as requested by the PTO.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection under 35 U.S.C. §112, 1<sup>st</sup> & 2<sup>nd</sup> paragraphs.

**Rejection Under 35 U.S.C. §102**

On pages 8 and 9 of the Office Action, the PTO has rejected claims 1-3, 6, 8, 11, 13 and 15-18 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,609,563 to Tsurushima et al. (hereafter “Tsurushima”). For the reasons set forth below, Applicants respectfully traverse this rejection.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP §2131.

Here, Tsurushima fails to disclose a "connecting structure, associated with at least said connecting portion of said conditioning housing, for selectively and alternately attaching each of said additional members (i) and (ii) to said connecting section" as recited in independent claims 21 and 33. Accordingly, Applicants submit that Tsurushima cannot properly anticipate claims 21 or 33 or the claims which ultimately depend therefrom. Independent claim 34 contains an essentially similar claimed feature, and is therefore also not anticipated.

As the PTO apparently realizes, Tsurushima fails entirely to teach a structure in which either a releasable cover or a rear vehicle compartment temperature control unit can be selectively connected to cover an air outlet opening in a conditioning housing, i.e., employing the claimed “connecting structure” that is part of the connecting section of the conditioning housing. The opening 34 in Tsurushima is not an “air outlet opening” in housing 2, inasmuch as opening 34 is an air inlet opening in housing 2. Thus, in the PTO’s construction of Tsurushima, the air flows in the wrong direction. Moreover, clearly the term “rear” in the context of the present application refers to a rear vehicle compartment temperature control unit, i.e., it is not “reasonable” to interpret this term as broadly as has been done in the Office Action. Further, in the alternate application of Tsurushima to the claims (bridging pages 8-9 of the Office Action), the opening 40 depicted in Fig. 8 of Tsurushima is not an “air outlet opening,” as one of ordinary skill in the art would interpret that term in the context of the present application.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection under §102.

Applicants also request reconsideration of the rejection of claims 19 and 20 (new claims 35 and 36) as being unpatentable over Tsurushima, as well as of the rejection of claim 14 as being unpatentable over Tsurushima in view of Umebayahi, in each case based on obviousness under 35 U.S.C. § 103. In each instance, the claims are believed to be allowable at least for the reasons set forth above with regard to parent claims 21 and 34. Under § 103, the failure of the principal reference to teach or suggest the improvement of the invention is an even more important criterion demonstrating patentability.

Finally, with regard to the withdrawal of claim 4 (corresponding to new claim 23), Applicants respectfully request reconsideration, in view of the fact that the elected embodiment of Figure 1 contains at least air outlet 17 that guides air to the rear vehicle passenger compartment. See paragraph [0023] of the specification, at the top of page 10. Further, as noted above, allowance of claim 21 will render this issue moot.

## **CONCLUSION**

In view of the foregoing amendments and remarks, Applicants respectfully submit that all of the pending claims are now in condition for allowance. If there are any questions regarding the application or minor changes that are needed to expedite bringing the application into condition for allowance, Examiner Cirić is courteously invited to contact the undersigned at the number below.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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**Amendments to the Drawings:**

The drawing sheets attached in connection with the above-identified application contain Figures 1-4 are being presented as corrected drawing sheets to be substituted for the previously submitted drawing sheets. Also attached is a replacement formal drawing sheet for Figure 7, which was approved in the Office Action. Drawing Figures 1, 2 and 4 have been amended. The specific changes which have been made to Figure 1 are a schematic depiction of a PTC heating element and reference numerals 31 referring to the portions of the connecting structure formed on the additional housing 10 that serve as part of means for connecting that housing to the connecting section of the conditioning housing 1. The change to Figure 2 is the addition of new reference numeral 29 to refer to the portion of the connecting structure that is part of cover 18 and cooperates with flanges 14 of the connecting section. The change to Figure 4 is the addition of reference numeral 31, similar to Figure 1. Corresponding additions have been made to the specification, above.

Formal drawing replacement sheets are provided for sheets 1/5, 2/5 and 3/5, as well as for sheet 5/5, noted above. All drawing sheets have been properly labeled.

1/5

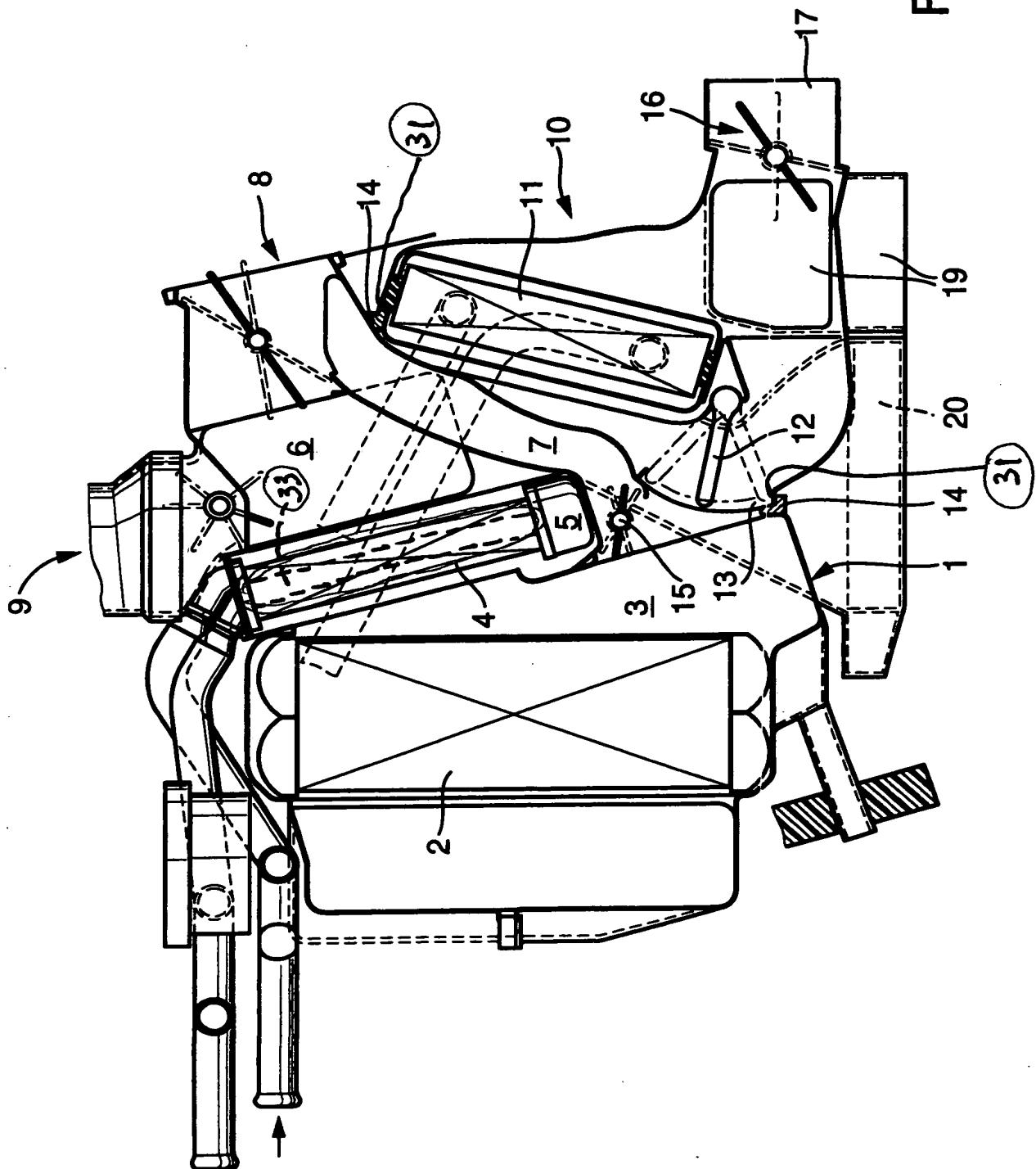
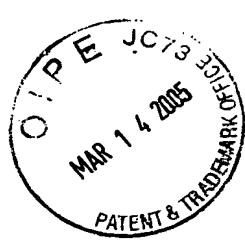


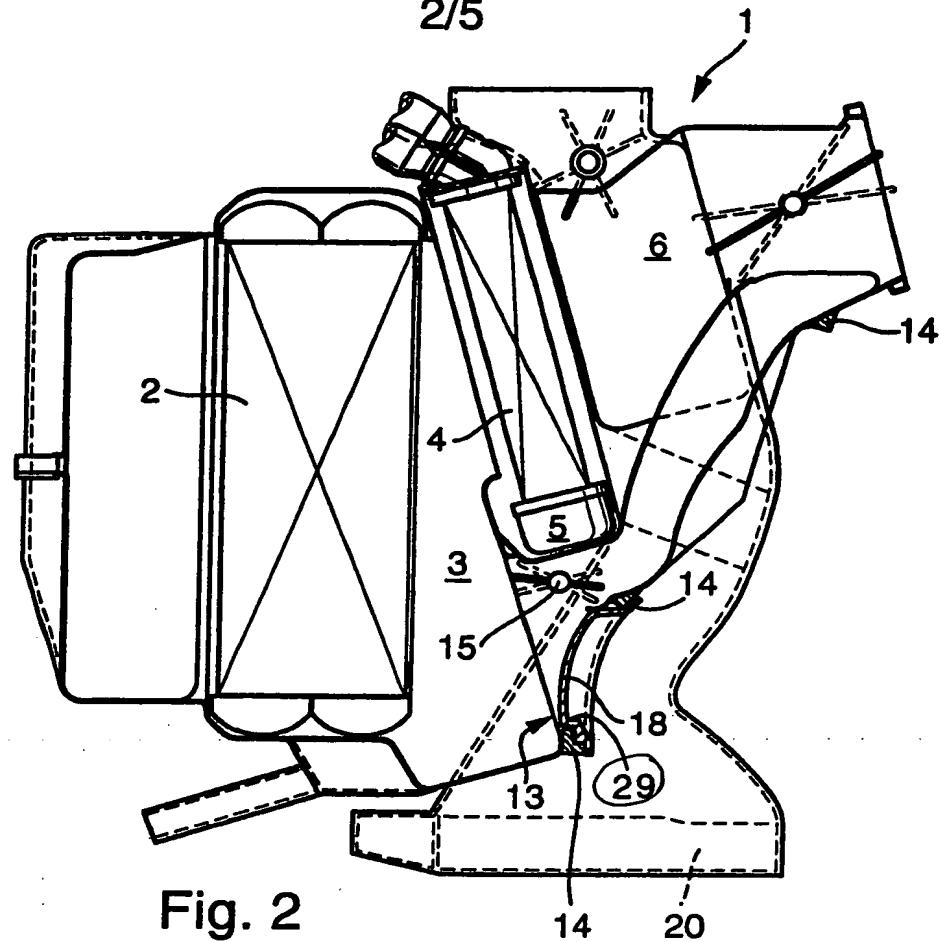
Fig. 1



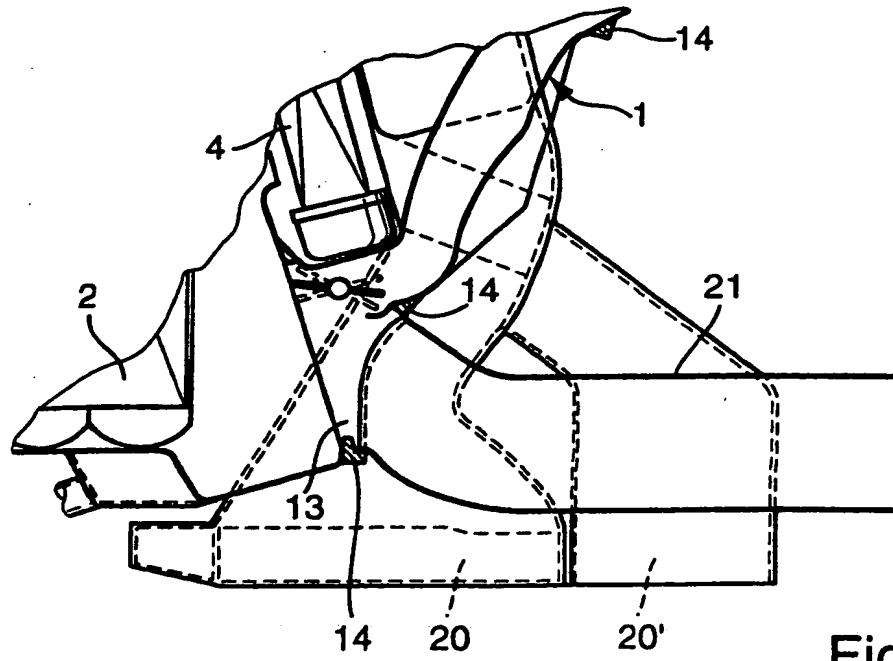


## Annotated Marked-up Drawings

2/5



**Fig. 2**



**Fig. 3**

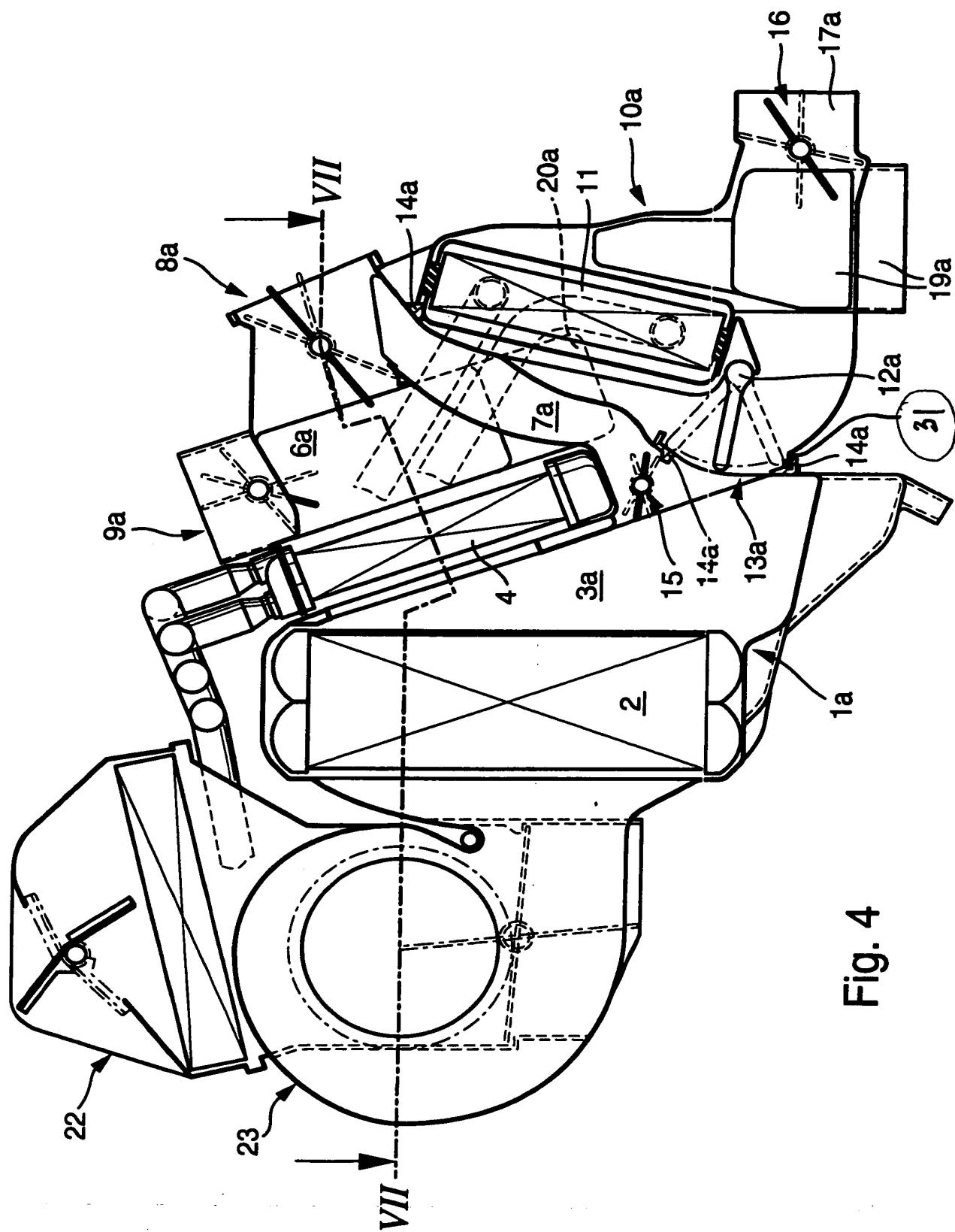


Fig. 4